

CITY OF ROSENBERG

REGULAR CITY COUNCIL MEETING MINUTES

On this the 20th day of October, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

Present: Cynthia A. McConathy, Mayor
William Benton, Councilor at Large, Position 1
Amanda J. Barta, Councilor at Large, Position 2
Jimmie J. Pena, Councilor, District 1
Susan Euton, Councilor, District 2
Lisa Wallingford, Councilor, District 3
Lynn Moses, Councilor, District 4

Staff Present: Robert Gracia, City Manager
Scott M. Tschirhart, City Attorney
Linda Cernosek, City Secretary
John Maresh, Assistant City Manager of Public Services
Jeff Trinker, Executive Director of Support Services
Joyce Vasut, Executive Director of Administrative Services
Travis Tanner, Executive Director of Community Development
Charles Kalkomey, City Engineer
Tonya Palmer, Building Official
Dallis Warren, Police Chief
Wayne Jory, Police Lieutenant
Chad Pino, Police Lieutenant
John Johnson, Police Sergeant
Daryl Segura, Police Sergeant
Brandon Moseley, Police Sergeant
Stephen Hart, Police Sergeant
Richard Hooper, Administrative Lieutenant
Wade Goates, Fire Chief
Justin Jurek, Fire Marshal
Darren McCarthy, Parks and Recreation Director
Lydia Acosta, Recreation Programs Coordinator
Randall Malik, Economic Development Director
James Lewis, Information Services Manager
Jenny Pavlovich, Communications Manager
Kaye Supak, Executive Assistant

Call to order: City Hall Council Chamber

Mayor McConathy called the meeting to order at 7:00 p.m.

Invocation and Pledge of Allegiance.

Pastor Rodrick Perkins, The Place Church, Rosenberg gave the invocation and Dylan Cooper, Troop 1000, led the pledge of allegiance to the flag.

Presentation of Rosenberg Image Committee Beautification and Renovation Awards.

Mayor McConathy and Councilor Benton presented Rosenberg Image Committee Beautification and Renovation Awards to:

- Bush's Chicken, 5400 Avenue I
- Manuel Rodriguez, 1115 Bernard Avenue
- La Casona Mexican Restaurant, 280000 Southwest Freeway, Suite G
- Tri Mart Brazos, 417 Houston Street

Introduction of New Police Lieutenant Chad Pino (SRO Division), Promoted August 24, 2015; and, Introduction of New Police Sergeants John Johnson (Patrol Division), Promoted on March 08, 2014; and, Daryl Segura (SRO Division), Brandon Moseley (Patrol Division), and Stephen Hart (Patrol Division) Promoted on September 02, 2015. Dallis Warren, Chief of Police, introduced the following newly promoted police:

- Police Lieutenant Chad Pino
- Police Sergeant John Johnson
- Police Sergeant Daryl Segura
- Police Sergeant Brandon Moseley
- Police Sergeant Stephen Hart

Announcements.

- Fall Activities in Downtown Rosenberg begin this weekend at 10:00 a.m.
- Boo-berg will be held at Seabourne Creak Park on Saturday, October 24th, from 10:00 a.m. to 12:00 p.m. Parents are invited to bring their children, ages 10 and under, out in their favorite costumes and participate in games and activities.
- Rosenberg hosted First Lady Cecilia Abbott on Tuesday, October 20th, as she dedicated the Main Street Program in Downtown Rosenberg, and we were honored to receive her recognition.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

- Samuel Carlisi - First thanked the Rosenberg Police Department for keeping the City safe, especially Dallis Warren and Robert Gracia, who have both served as Chiefs of Police. Mr. Carlisi then urged the City to help citizens who are unable to pay their municipal court fines for minor violations by raising the minimum rate per day of incarceration.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. **Review of Consent Agenda.**

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

- A. **Consideration of and action on Regular Meeting Minutes for September 15, 2015, Special Meeting Minutes for September 22, 2015, Workshop Meeting Minutes for September 22, 2015, and Special Meeting Minutes for September 28, 2015.**
- B. **Consideration of and action on Resolution No. R-2047, a Resolution authorizing the City Manager to terminate, for and on behalf of the City, an Asset Disposition Services Agreement with PropertyRoom.com for online auction services.**

EXECUTIVE SUMMARY

The City Secretary is requesting approval to terminate an Asset Disposition Services Agreement (Agreement) with PropertyRoom.com for its online auction services. According to Section 3.b. of the Agreement, "Either Owner or Contractor (the "Party" or "Parties") may terminate the Agreement upon 30 days prior written notice to the other Party." This Agreement was approved at the February 17, 2015 City Council Meeting.

The City Secretary recommends approval of Resolution No. R-2047, authorizing the City Manager to terminate the Asset Disposition Services Agreement with PropertyRoom.com.

- C. **Consideration of and action on authorization to sell the proposed list of surplus property items to be included in City-wide auction.**

EXECUTIVE SUMMARY

For City Council's consideration, staff has provided items on the attached list to be included in the City-wide auction to retire surplus equipment, confiscated items, and other salvaged property. If approved by City Council, the on-line auction will be with GovDeals, Inc., and the vehicles and equipment with C.J. Stommel & Associates. Agreements for said services with both auction service providers have been included for City Council

consideration as subsequent items on this Agenda.

Staff recommends approval of the surplus list as presented.

- D. **Consideration of and action on Resolution No. R-2043, a Resolution authorizing the City Manager to negotiate and execute, for and on behalf of the City, a Contract for Services by and between the City and C.J. Stommel & Associates Automotive Auctioneers for the sale of surplus City vehicles and equipment.**

EXECUTIVE SUMMARY

The City Secretary is requesting approval of Resolution No. R-2043 to enter into a Contract with C.J. Stommel & Associates Automotive Auctioneers for the sale of surplus vehicles and equipment.

C.J. Stommel & Associates, the proposed auctioneer, only sells automobiles and equipment. Auctions are held every four (4) weeks at their location on Gasmer Drive in Houston, Texas. All items to be sold in auction will be approved by the City Council on a surplus auction list prior to sale. The City has successfully used this auctioneering firm for sale of its vehicles and equipment in the past. A copy of the proposed Contract for Services with C.J. Stommel & Associates is attached to Resolution No. R-2043 as Exhibit "A" and has been reviewed by the City Attorney. Staff recommends approval of Resolution No. R-2043 to facilitate the sale of its surplus vehicles and equipment.

- E. **Consideration of and action on Resolution No. R-2044, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Online Auction Memo of Understanding (Contract) for professional auction services, by and between the City and GovDeals, Inc.**

EXECUTIVE SUMMARY

The City Secretary is requesting approval to enter into an Online Auction Memo of Understanding with GovDeals, Inc., for online services to retire surplus equipment, confiscated items, and other salvaged property. The auction will be held online and the GovDeals, Inc., will be the online auction service.

The City Secretary recommends approval of Resolution No. R-2044, authorizing the City Manager to execute the Online Auction Memo of Understanding for auction services with GovDeals, Inc.

- F. **Consideration of and action on Resolution No. R-2058, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Interlocal Agreement for EMS Housing between Fort Bend County and the City of Rosenberg for the housing of Mobile Intensive Care Unit(s) and personnel.**

EXECUTIVE SUMMARY

Resolution No. R-2058 provides the opportunity for City Council to consider an Interlocal Agreement (Agreement) with Fort Bend County, for the housing of one or more Fort Bend County Mobile Intensive Care Unit(s) and sufficient personnel. Fort Bend County would like to house the vehicle(s) and personnel at 406 Houston Street, in the former Fire Station. The term of the Agreement, attached to Resolution No. R-2058 as Exhibit "A", is from the date of execution by the last party through midnight on September 30, 2015, and will automatically renew thereafter under the same terms and conditions each October 1 unless specifically terminated by either party.

Staff recommends approval of Resolution No. R-2058, providing authorization for the Mayor to execute an Interlocal Agreement by and between the City and Fort Bend County for EMS housing.

- G. **Consideration of and action on Resolution No. R-2059, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Interlocal Agreement by and between Fort Bend County, Texas, and the City of Rosenberg for the housing of Rosenberg Fire Department response vehicles and personnel.**

EXECUTIVE SUMMARY

Resolution No. R-2059 provides the opportunity for City Council to consider an Interlocal Agreement (Agreement) with Fort Bend County for the use of a County-owned building generally located at 4336 Highway 36 South for the housing of certain response vehicles and personnel. This building is located at the corner of Highway 36 South and Band Road. The term of the Agreement, attached to Resolution No. R-2059 as Exhibit "A", is from the date of execution by the last party through midnight on October 1, 2016, and will automatically renew thereafter for four (4) consecutive one-year terms each October 1 under the same terms and conditions unless specifically terminated by either party.

Staff recommends approval of Resolution No. R-2059, providing authorization for the Mayor to execute an Interlocal Agreement by and between the City and Fort Bend County for the housing of Rosenberg Fire Department response vehicles and personnel.

- H. **Consideration of and action on Resolution No. R-2050, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract Extension for Parks Grounds Maintenance Services, by and between the City and A's Camo Cutters for a term of one (1) year, in the amount of \$40,000.**

EXECUTIVE SUMMARY

On October 21, 2014, City Council approved Resolution No. R-1831, which awarded Bid No. 2014-13 for Parks Grounds Maintenance Services to A's Camo Cutters, for a one (1) year term effective October 21, 2014, through October 21, 2015. The services include mowing at the following City Parks: Harwood, Brazos, Tony Becerra, and Riverbend Parks.

On August 25, 2015, this item was considered at the City Council Workshop Meeting and the general consensus was to move forward with the Contract Extension.

A's Camo Cutters continues to perform satisfactorily. Staff recommends approval of Resolution No. R-2050, a Resolution authorizing the City Manager to execute, for an on behalf of the City, a Contract Extension for Parks Grounds Maintenance Services, by and between A's Camo Cutters, in the amount of \$40,000 for a term of one (1) year.

- I. **Consideration of and action on Resolution No. R-2051, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract Extension for Seabourne Creek Regional Sports Complex Grounds Maintenance by and between the City and NRI Brokerage dba Earth First Landscapes, for a term of one (1) year in the amount of \$52,980.**

EXECUTIVE SUMMARY

On October 21, 2014, City Council approved Resolution No. R-1832, which awarded Bid No. 2014-14 for Seabourne Creek Regional Sports Complex Grounds Maintenance to NRI Brokerage dba Earth First Landscapes, for a one (1) year term effective October 21, 2014, through October 21, 2015. The services include maintaining Seabourne Creek Regional Sports Complex.

Earth First Landscapes continues to perform satisfactorily and staff recommends extending the Contract for one (1) additional year. On August 25, 2015, this item was considered at the City Council Workshop Meeting and the general consensus was to move forward with the Contract Extension. Resolution No. R-2051 would authorize a Contract Extension, attached as Exhibit "A", with NRI Brokerage dba Earth First Landscapes in the amount of \$52,980 for a term of one (1) year, terminating October 21, 2016.

- J. **Consideration of and action on Resolution No. R-2061, a Resolution authorizing the issuance of Fort Bend County Municipal Utility District No. 162 (which includes Sunrise Meadow) Unlimited Tax Refunding Bonds, Series 2015A, in an amount not to exceed \$4,800,000.00.**

EXECUTIVE SUMMARY

Attached for City Council's consideration is Resolution No. R-2061, a Resolution granting the City's consent to Fort Bend County Municipal Utility District No. 162 (MUD No. 162) located within Sunrise Meadow Subdivision, to issue refunding bonds in an amount not to exceed \$4,800,000. 00.

On May 03, 2005, LGI Homes, Ltd., submitted a petition to the City to create a Municipal Utility District that included approximately 305.426 acres located within the Extraterritorial Jurisdiction of the City of Rosenberg, to be known as MUD No. 162. Accordingly, the Petition for Consent and associated Ordinance No. 2005-07 were approved by City Council at that time.

MUD No. 162 has the opportunity to "refund" or "refinance" portions of existing bonds by issuing new bonds at a lower rate of interest than the existing bonds, thus ensuring significant reduction in interest expense for the issuer. Staff has reviewed the request and associated documentation and finds that the refunding to be advantageous to MUD No. 162 and its taxpayers.

Following is a list of Unlimited Tax Bond Sales that have been previously approved by City Council:

- The first bond sale was approved by City Council through Ordinance No. 2007-47 on October 16, 2007, in the amount of \$3,495,000.
- The second bond sale for MUD No. 162 (and first sale from the March 03, 2009 Texas Commission on Environmental Quality's (TCEQ) issuance order in the amount of \$2,400,000) was considered and approved by City Council on April 21, 2009, in the amount of \$1,500,000 through Ordinance No. 2009-16.
- The second bond issuance, out of the March 03, 2009 TCEQ issuance order provided for the sale of the remaining \$900,000. Accordingly, the remaining issuance in the amount of \$900,000 was considered and approved by City Council on January 19, 2010, through Ordinance No. 2010-03. The two (2) issuances combined to provide for the second total bond sale in the total amount of \$2,400,000.
- The third bond sale was approved by City Council through Ordinance No. 2013-28 on September 17, 2013, in the amount of \$1,600,000.
- The fourth bond sale was approved by City Council through Ordinance No. 2015-18 on June 02, 2015, in the amount of \$2,000,000.

Submission documentation for this sale, previous bond sale Ordinances, meeting minute excerpts, and other

associated documentation is available for review in the City Secretary's Office.

Staff recommends approval of Resolution No. R-2061, regarding the issuance of Fort Bend County Municipal Utility District No. 162 Tax Unlimited Refunding Bonds, Series 2015A, in an amount not to exceed \$4,800,000.00.

- K. **Consideration of and action on Ordinance No. 2015-29, an Ordinance amending the Code of Ordinances, Chapter 16, Article IV – Itinerant Vendors, Solicitors and Peddlers; establishing affirmative defenses to permit requirements; establishing a responsible department; repealing all conflicting ordinances, providing a severability clause, and providing for an effective date.**

EXECUTIVE SUMMARY

Per Code of Ordinances, Chapter 16, Article IV, itinerant merchants or vendors are required to operate under a City permit with an application fee of fifty dollars (\$50). An itinerant merchant or vendor is generally defined by the Ordinance as "a person, as well as their agents and employees, who sets up and operates a temporary business within the premises of another business or any other building, enclosure, vacant lot, vehicle or location in the city, soliciting, exhibiting, selling or taking orders for or offering to sell or take orders for any goods or services."

At the September 22, 2015, City Council Workshop Meeting, City Council discussed recent correspondence questioning the City's authority to assess a fee pursuant to Section 16-175 (2), and also alleging discrimination against certain itinerant vendors. The correspondence is attached for review. After discussion, City Council affirmed the City's authority to regulate and collect a fee for each itinerant vendor wanting to set up at a temporary location as defined by the Ordinance.

As a result, City Council directed staff to make the recommended changes to the Code of Ordinances, clarifying Section 16-175 (2) – Affirmative defenses to permit requirements, deleting the words "or vendor" and adding the word "home" solicitor. They also recommended changing the responsible department throughout the Ordinance, deleting "customer service department", and replacing it with "building official."

Staff recommends approval of Ordinance No. 2015-29 as presented.

- L. **Consideration of and action on a request by EHRA to extend approval by one (1) year for the Final Plat of Summer Lakes Section Eight, being a subdivision of 8.574 acres out of the W.M. Lusk Survey, A-276 in the City of Rosenberg, in Fort Bend County, Texas (Fort Bend County Municipal Utility District No. 144); 36 lots, 2 blocks, 1 reserve (0.5214 acres).**

EXECUTIVE SUMMARY

City Council approved the Final Plat of Summer Lakes Section Eight on October 21, 2014, following a recommendation of approval from the Planning Commission on September 17, 2014. Pursuant to the "Subdivision" Ordinance, the applicant has requested an extension of one (1) year from the date of its expiration (October 21, 2015).

After receiving the request from EHRA to extend the Final Plat approval for Summer Lakes Section Eight for an additional one (1) year, on September 16, 2015, the Planning Commission recommended approval of the request to City Council. Staff has no objection to extending the approval of the Final Plat of Summer Lakes Section Eight by one (1) year from the expiration date of October 21, 2015. If approved, the Final Plat would then expire on October 21, 2016.

- M. **Consideration of and action on Resolution No. R-2054, a Resolution acknowledging the acceptance, by Right-of-Way Deed, of a 0.225 acre (9,801 square foot), 10-foot wide right-of-way dedication on a called 87.141 acre tract of land conveyed to LGI Homes – Texas, LLC, and described in a deed recorded in Clerk's File No. 2014051923 of the Official Public Records of Fort Bend County, Texas (OPRFBC), out of the G.M. Stone 1/3 League, Abstract 312, in the City of Rosenberg, Fort Bend County, Texas.**

EXECUTIVE SUMMARY

LGI Homes, the current Developer of the Trails at Seabourne Parke (Fort Bend County MUD No. 147), has proposed to dedicate ten feet (10') of right-of-way for improvements to J. Meyer Road. The property is located on the south side of J. Meyer in particular and stretches from the east side of the Park Thicket Lane right-of-way to the centerline of Seabourne Creek. This spans the extent of frontage the Developer owns along J. Meyer Road.

J. Meyer is classified as a Major Thoroughfare on the City's Master Thoroughfare Plan necessitating an ultimate right-of-way width of one hundred feet (100'). Ten feet (10') of right-of-way is required on the Developer's side of J. Meyer to achieve the ultimate right-of-way width of 100'. In addition to the Master Thoroughfare Plan, the Developer is making improvements to J. Meyer pursuant to an agreement with the City that requires the additional right-of-way width.

This item has been placed on the Agenda since City Council action is required to formally authorize the acceptance of right-of-way deed, attached to Resolution No. R-2054 as Exhibit "A". Staff recommends approval of Resolution No. R-2054 authorizing the acceptance.

- N. **Consideration of and action on Resolution No. R-2055, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Second Amendment to Development Agreement by and between the City and Lennar Homes of Texas Land and Construction, Ltd.**

EXECUTIVE SUMMARY

A revised Land Plan has been submitted for Walnut Creek consisting of 516 acres of land. Note that the acreage for the development has been reduced from its original approximately 527 acres (see attached 2008 approved Land Plan included in the 1st Amendment to the Development Agreement). The reduction in acreage is due to the omission of a tract located at the southeast corner of A Meyers Road and Benton Road that the developer has not been successful in acquiring. Included in the overall acreage, but no longer in the development plan, is the approximately 94-acre regional detention tract that was conveyed to the City. That tract is bounded by Dry Creek, the proposed extension of Benton Road south of Dry Creek, Ricefield Road, and the east property line of a drill site.

Omitting the acreage discussed above from the proposed residential development is the reason for revising the Land Plan. The developer also wants to move forward to plat/subdivide to the east of the future Benton Road and Irby Cobb Boulevard intersection (i.e., Sections 11, 12, and 13). It should be noted that this development was originally planned under the ordinance requiring a minimum of fifty percent (50%) sixty foot (60') lots in the development. Now that requirement is for one hundred percent (100%) 60' lots. However, the developer had a number of fifty foot (50') lots planned for the area that is now the City's regional detention. They would like to continue the previously planned proportion of 50' lots on the south side of Dry Creek. This Plan reduces the development from 1,509 to 1,190 lots, or a reduction of 319 lots.

Staff has no objection to the proposed changes and recommends that the Development Agreement be formally amended by City Council action to update the Land Plan exhibit. The latter should take place before City Council approval of any future Walnut Creek plats located east of Benton Road.

On September 16, 2015, the Planning Commission recommended approval to City Council of the revised Land Plan of Walnut Creek. Staff recommends approval of Resolution No. R-2055, authorizing the City Manager to execute, for and on behalf of the City, the Second Amendment to Development Agreement with Lennar Homes of Texas Land and Construction, Ltd., attached to said Resolution as Exhibit "A".

- O. **Consideration of and action on Resolution No. R-2040, a Resolution establishing a fee schedule for the permitting of Tow Trucks and Towing Companies performing non-consent tows within the City of Rosenberg.**

EXECUTIVE SUMMARY

In September of 2014 the current heavy duty wrecker companies on the Rosenberg Police Department rotation presented a request for an increase of fees and proposed that new fees be added to the City's current fee schedule. They later presented an additional proposal for an alternate fee schedule.

A fee study was conducted by the Rosenberg Police Department and as a result, it was determined that an increase of fees would be in line with the fees charged by surrounding jurisdictions.

In September of 2015, a meeting was held with the owners of the heavy duty wrecker companies and the Rosenberg Police Department. During this meeting all parties came to a consensus on a proposed increase.

At the September 22, 2015 City Council Workshop, the proposed fee schedule was discussed and a recommendation made to change the current fee schedule for heavy duty wreckers. Staff recommends approval of Resolution No. R-2040 establishing the new fee schedule, attached as Exhibit "A" to said Resolution.

- P. **Consideration of and action on Resolution No. R-2053, a Resolution approving and adopting a Wellness and Fitness Policy.**

EXECUTIVE SUMMARY

The City of Rosenberg Police Department has a mandatory fitness assessment using recognized standards to reinforce and encourage maintaining a healthy lifestyle for sworn personnel. Staff has prepared a Wellness and Fitness Policy for all City employees based on these standards. The Wellness and Fitness Policy is voluntary for City employees and would allow the employees to receive incentive day(s) off depending on the level of results obtained. Staff is recommending approval of the policy providing four levels: Level 1 - one day off; Level 2 - two days off; Level 3 - three days off; Level 4 - three days off and a one-time bonus of \$150.00. Employees would only be eligible for one incentive per year, awarded in January.

The incentive days off are not expected to create a fiscal budget impact due to supervisor's management of the department schedule. The days off are for Levels 1, 2, 3, and 4.

The fiscal budget impact would be the \$150.00 one-time bonus, which is only at Level 4. It is estimated that five (5) employees from the Police Department would be eligible based on past testing history. The City does not have an accurate estimate of other department's employees due to no previous testing history; therefore, the fiscal budget impact would be unknown in other departments.

Staff recommends approval of Resolution No. R-2053 establishing a Wellness and Fitness Policy for the City of Rosenberg.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 4 Lynn Moses to approve Consent Agenda items A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, and P.

Vote: 7 - 0 Carried - Unanimously

REGULAR AGENDA

2. **Review and discuss a presentation regarding a proposed Eagle Scout Project by Dylan Cooper of Troop 1000 to build a composter near the Prairie Demonstration Garden in Seabourne Creek Nature Park, and take action as necessary.**

EXECUTIVE SUMMARY

On September 24, 2015, at the regularly scheduled Parks and Recreation Board (Board) meeting, Dylan Cooper, Troop 1000, presented a proposal to build a composter near the Prairie Demonstration Garden in Seabourne Creek Nature Park. Once completed, the project will allow the Texas Master Naturalists to recycle the waste created from the removal of weeds and other invasives in the Prairie Demonstration Garden. The Project is estimated to be about a maximum of \$425.00. Funds are currently being raised through Troop-mates, friends, and family. After reviewing the presentation, the Board unanimously recommended the Project plan for approval.

Staff and the Parks and Recreation Board recommend approval of the proposed Eagle Scout Project by Dylan Cooper of Troop 1000 to build a composter near the Prairie Demonstration Garden in Seabourne Creek Nature Park.

KEY DISCUSSION POINTS

Darren McCarthy, Parks and Recreation Director, read the Executive Summary and introduced Dylan Cooper of Boy Scout Troop 1000, who gave a presentation on his Eagle Scout Composter Project Proposal for Seabourne Creek Nature Park. Council thanked Mr. Cooper for his proposal and his project for the City.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor at Large, Position 1 William Benton to approve the proposed Eagle Scout Project for Seabourne Creek Nature Park by Dylan Cooper of Troop 1000.

Vote: 7 - 0 Carried - Unanimously

3. **Consideration of and action on Ordinance No. 2015-31, an Ordinance amending the Code of Ordinances by amending Chapter 21 entitled "Parks and Recreation", creating Section 21-53 to be entitled, "Prohibiting Unmanned Drone Use In City Parks"; providing for a penalty; providing that this Ordinance shall be cumulative; providing for severability and providing for an effective date.**

EXECUTIVE SUMMARY

In conjunction with the City Attorney, staff has prepared Ordinance No. 2015-31, prohibiting unmanned drone use in City parks. There is currently no Ordinance in place pertaining to the use of unmanned drones in City parks. This Ordinance is an effort to achieve a balance to protect the public's reasonable expectation of privacy and civil liberties without affecting law enforcement activities. This Ordinance will pertain to all City parks including: Brazos, Harwood, Macario Garcia, Riverbend, Seabourne Creek Nature, Seabourne Creek Regional Sports Complex, Sunset, Tony Becerra, and Travis Parks.

Staff recommends approval of Ordinance No. 2015-31, an Ordinance prohibiting unmanned drone use in City parks.

KEY DISCUSSION POINTS

Darren McCarthy, Parks and Recreation Director, read the Executive Summary and explained that this Ordinance would apply to everyone, unless they received special permission from the City Manager prior to drone operation. One of the major concerns that this Ordinance seeks to address is to avoid a drone operator operating without insurance and an accident taking place.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 3 Lisa Wallingford to approve Ordinance No. 2015-31, an Ordinance amending the Code of Ordinances by amending Chapter 21 entitled "Parks and Recreation", creating Section 21-53 to be entitled, "Prohibiting Unmanned Drone Use In City Parks"; providing for a penalty; providing that this Ordinance shall be cumulative; providing for severability and providing for an effective date.

Vote: 7 - 0 Carried - Unanimously

4. **Consideration of and action on Resolution No. R-2052, a Resolution authorizing acceptance of a donation from the Rosenberg Rotary Club for a message board to be placed in Tony Becerra Park.**

EXECUTIVE SUMMARY

At the regularly scheduled Parks and Recreation Board (Board) meeting on August 27, 2015, the Board received a request from Hugh Conway, Rosenberg Rotary President. Rosenberg Rotary would like to donate a message board to the City to be placed in Tony Becerra Park. The message board will be similar to what is in other parks throughout the City and will allow the Parks and Recreation Department to display upcoming event flyers. Rosenberg Rotary would like to display the Rotary logo on the board saying the board was donated by Rosenberg Rotary. The estimated cost of the message board is \$558.85. After reviewing the request, the Board unanimously recommended accepting the donation.

Staff recommends approval of Resolution No. R-2052, a Resolution authorizing the City Manager to accept a donation from Rosenberg Rotary for a message board to be placed in Tony Becerra Park.

KEY DISCUSSION POINTS

Darren McCarthy, Parks and Recreation Director, read the Executive Summary and introduced Hugh Conway from the Rosenberg Rotary Club, who invited everyone to join the Rotary Club any Wednesday in the Heritage Room for one of their weekly meetings, on November 6th, for the opening of the Community Garden, and on November 20th, for the ribbon cutting. Council thanked the Rosenberg Rotary Club for their donation.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 3 Lisa Wallingford to approve Resolution No. R-2052, a Resolution authorizing acceptance of a donation from the Rosenberg Rotary Club for a message board to be placed in Tony Becerra Park.

Vote: 7 - 0 Carried - Unanimously

5. **Consideration of and action on Ordinance No. 2015-30, an Ordinance amending the Code of Ordinances, by amending Section 21-46 of Chapter 21 thereof and by adding a new Section 21-52 to Chapter 21 thereof; providing a definition of "City Parks"; prohibiting the use of tobacco products and electronic smoking devices within any City park; providing a penalty in an amount not to exceed \$2,000 for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.**

EXECUTIVE SUMMARY

Staff has prepared Ordinance No. 2015-30 to include prohibiting electronic smoking devices to the current "Smoking" Ordinance as it relates to City parks. Staff presented information relating to the growing health concerns of electronic smoking devices to the Parks and Recreation Board (Board) at their regular meeting on June 25, 2015. The Board recommended the information be reviewed with City Council.

At the City Council Workshop Meeting on August 25, 2015, staff reviewed the information contained in Senate Bill 97, signed into law on May 28, 2015, in which the State of Texas recognizes electronic smoking devices as part of all tobacco laws pertaining to minors. City Council recommended staff work with the City Attorney on proposed changes to the current "Smoking" Ordinance as it relates to City parks. Staff reviewed the proposed Ordinance with the Board on September 24, 2015, at the regular Parks Board meeting. The proposed Ordinance was recommended for approval to City Council unanimously by those present.

Staff recommends approval of Ordinance No. 2015-30, amending the Code of Ordinances to include prohibiting electronic smoking devices to the current "Smoking" Ordinance as it pertains to City parks.

KEY DISCUSSION POINTS

Lydia Acosta, Recreation Programs Coordinator, read the Executive Summary. The existing Tobacco Ordinance is in place so that the Police Department can intervene in the event that someone is asked to cease smoking in a public park and they do not comply. Some concern was expressed for the invasion of personal rights.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 3 Lisa Wallingford to approve the first reading of Ordinance No. 2015-30, an Ordinance amending the Code of Ordinances, by amending Section 21-46 of Chapter 21 thereof and by adding a new Section 21-52 to Chapter 21 thereof; providing a definition of "City Parks"; prohibiting the use of tobacco products and electronic smoking devices within any City park; providing a penalty in an amount not to exceed \$2,000 for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.

Vote: 4 - 3 Carried - Yeses: Mayor McConathy, Councilors Benton, Barta, and Wallingford. Noes: Councilors Pena, Euton, and Moses.

6. **Consideration of and action on Resolution No. R-2049, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract for Engineering Services for the Community Development Block Grant funded North Side Water Line Improvements - Phase III, by and between the City and Kelly R. Kaluza and Associates, Inc., in the amount of \$41,500.00.**

EXECUTIVE SUMMARY

The CDBG program is administered through the Fort Bend County Community Development Department on an annual basis to qualified organizations and municipalities. The City received CDBG funding from Fort Bend County for Phase III of this water line project to serve the north side of Rosenberg. The City match is to provide for engineering services and a portion of the construction costs. CDBG engineering procurement guidelines are followed in the selection process. The scope of engineering services is better described on the attached memorandum.

The City issued a Request for Qualifications (RFQ) for engineering services on this project. Advertisements were placed in the local newspaper and posted on the City website. Statements of Qualifications (SOQs) were received from five (5) engineering firms by the Wednesday, September 16, 2015 deadline. The proposals were reviewed by staff and a checklist was used to ensure all CDBG criteria were met. Using the checklist, the review is based on (1) the firm's familiarity with the project scope, (2) qualifications and experience of the team representatives to be assigned to this project; and (3) previous experience on projects with similar scope. Based on this review, staff recommends Kelly R. Kaluza & Associates, Inc., based on their first hand experience and knowledge of the proposed project. This same firm has previously been selected for engineering services on prior CDBG projects for the City.

Staff recommends approval of Resolution No. R-2049, a Resolution authorizing the City Manager to execute a Contract for Engineering Services for the CDBG Phase III Water Line Improvements Project, by and between the City and Kelly R. Kaluza & Associates, Inc., in the amount of \$41,500.00. A copy of the Agreement is attached to Resolution No. R-2049 as Exhibit "A".

KEY DISCUSSION POINTS

John Maresh, Assistant City Manager of Public Services, read the Executive Summary and introduced Dwayne Whitehead from Kelly R. Kaluza and Associates, Inc. Mr. Whitehead clarified that the company does not foresee needing to use the ATV rental outlined on page 13 of 14 in Exhibit A to the Resolution.

ACTION

Motion by Councilor, District 4 Lynn Moses, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-2049, a Resolution authorizing the City Manager to execute, for and on behalf of the City, a Contract for Engineering Services for the Community Development Block Grant funded North Side Water Line Improvements - Phase III, by and between the City and Kelly R. Kaluza and Associates, Inc., in the amount of \$41,500.00.

Vote: 7 - 0 Carried - Unanimously

7. **Consideration of and action on Resolution No. R-2045, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Intergovernmental Agreement, by and between the City and the H-GAC for participation in a Regional DWI Task Force from October 01, 2015, to September 30, 2016.**

EXECUTIVE SUMMARY

The Houston-Galveston Area Council (H-GAC) is acting as the administrator for the Texas Department of Transportation (TxDOT) Selective Traffic Enforcement Program (STEP) Grants. Approval of this Intergovernmental Agreement, attached as Exhibit "A" to Resolution No. R-2045, will allow the Rosenberg Police Department to participate in the DWI Task Force Program and receive overtime compensation reimbursement for officers working during selected holiday periods. The City of Rosenberg is eligible for up to \$4,000.00 in reimbursement.

Staff recommends approval of Resolution No. R-2045.

KEY DISCUSSION POINTS

Dallis Warren, Chief of Police, read the Executive Summary and explained that the H-GAC actually applies for the grant for the entire region, and then they offer the Intergovernmental Agreement so that we can participate to the degree to which we are able.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 2 Susan Euton to approve Resolution No. R-2045, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Intergovernmental Agreement, by and between the City and the H-GAC for participation in a Regional DWI Task Force from October 01, 2015, to September 30, 2016.

Vote: 7 - 0 Carried - Unanimously

8. **Consideration of and action on Ordinance No. 2015-33, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2015; awarding the sale thereof; and containing matters incident thereto.**

EXECUTIVE SUMMARY

On September 15, 2015, City Council adopted Resolution No. R-2039 authorizing publication of Notice of Intention to issue Certificates of Obligation, in an aggregate principal amount not to exceed \$10,000,000 for improvements to Bryan Road, Spacek Road, Old Richmond Road and water and wastewater system improvements. The notice was published on September 18, 2015, and September 25, 2015, as required, with an amount not to exceed \$10,000,000.00. There has been no presentation of a petition by the citizens to call an election to approve the issuance of \$10,000,000.00 in Certificates of Obligation for improvements to the proposed projects, and to pay the costs incurred in connection with the issuance of the Certificates.

Ordinance No. 2015-33 authorizes the issuance of the Certificates and approves the results of the bidding process and sale of the Certificates. The Ordinance also sets forth the procedures for the finalization of the sale and delivery of the proceeds to the City. Joe Morrow of First Southwest Company and Marcus Deitz with McGuireWoods, LLP, representing the City as Bond Counsel, will be present at the meeting to review the results of the sale with City Council.

Staff recommends approval of Ordinance No. 2015-33, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2015; awarding the sale thereof; and containing matters incident thereto

KEY DISCUSSION POINTS

Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary and introduced Joe Morrow of First Southwest Company and Marcus Deitz with McGuireWoods, LLP, representing the City as Bond Counsel. Mr. Morrow presented a summary of the sales results to Council. Council thanked them for making the bonds callable in ten years instead of twenty, and urged future Councils to try to pay them back early. The bonds are written so that the funds borrowed can only go to City street projects, but the specific roads for which the funds are intended are not named on the bond.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 2 Susan Euton to approve Ordinance No. 2015-33, an Ordinance authorizing and ordering the issuance of the City of Rosenberg, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2015; awarding the sale thereof; and containing matters incident thereto.

Vote: 6 - 1 Carried - Yeses: Mayor McConathy, Councilors Barta, Pena, Euton, Wallingford, and Moses. No: Councilor Benton.

Mayor McConathy adjourned for a break at 8:09 p.m., and reconvened at 8:20 p.m.

9. **Consideration of and action on Resolution No. R-2060, a Resolution authorizing the City Manager to negotiate and execute, for and on behalf of the City, an Agreement by and between the City and Ilcor Builders for the purchase and construction of a site-built portable building for use as office space by the Rosenberg Utilities Department in the amount of \$161,850.00.**

EXECUTIVE SUMMARY

At the August 28, 2015 City Council Workshop meeting, staff reviewed the need for office space for the Utilities Department's management and administrative personnel. Staff also presented a conceptual plan for office space as designed by Ilcor Builders (Ilcor), a company that LCISD highly recommended as one of their providers of portable classroom units. Ilcor's proposal was priced at \$161,850, and staff recommended to purchase this building through the BuyBoard cooperative purchasing organization.

Products and services offered on BuyBoard have already been through the competitive procurement process. In addition to Ilcor's fee, there will be additional costs of up to \$120,000 for site grading, concrete paving and other ancillary project costs. The Ilcor project manager estimates that the timeline from approval to substantial completion would be approximately 90-120 days.

The City Council directed staff to determine if the price provided by Ilcor was competitive by contacting other vendors. City Council also directed staff to investigate used modular office space. Staff contacted numerous contractors (all from the Houston metro area) and received three (3) responses concerning the pricing for a similar structure:

- 1) Bass Construction: Stated that their pricing would likely be similar to Ilcor's.
- 2) Stonewall Constructors: Stated Ilcor's price is very good. They would charge much more for a similar project.
- 3) Vidal Construction: Stated that they would charge as much or more than Ilcor.

As requested, staff investigated the possibility of acquiring pre-owned portable office space for the Utilities Department. Despite reviewing numerous options from around the country, staff did not locate a unit that both met the department's required specifications and expectations for quality.

Staff recommends the approval of Resolution No. R-2060 a Resolution authorizing the City Manager to negotiate and execute for and on behalf of the City an Agreement for the acquisition of a site-built portable building for use as office space by the Utilities Department.

KEY DISCUSSION POINTS

Jeff Trinker, Executive Director of Support Services, read the Executive Summary. The reason a formal bid was not conducted was that the Utilities Department wanted to get a broad spectrum of possible types of structures. Once it was determined that the modular building are glued together, and some feedback was received on modular buildings, it was decided to pursue other options. The Ilcor building was located through a buy board, where it went through a bidding process that meets the state statutes for being competitively bid.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Resolution No. R-2060, a Resolution authorizing the City Manager to negotiate and execute, for and on behalf of the City, an Agreement by and between the City and Ilcor Builders for the purchase and construction of a site-built portable building for use as office space by the Rosenberg Utilities Department in the amount of \$161,850.00.

Vote: 7 - 0 Carried - Unanimously

10. **Consideration of and action on Resolution No. R-2056, a Resolution accepting the filing of a petition by land owner for annexation of a 20.37 acre (887,403 square feet) tract of land, situated in the John Foster Survey, Abstract No. 27, the Henry Scott Survey, Abstract No. 83, the B.B.B. & C. Railroad Company Survey, Abstract No. 139, the Yandell Ferris Survey, Abstract No. 375, and the Yandell Ferris Survey, Abstract No. 377, Fort Bend County, Texas.**

EXECUTIVE SUMMARY

City staff has received a request for the voluntary annexation of an existing 20.37-acre tract of land. The property is located on the north side of State Highway 36 West and to the east of Frito Lay. It was part of the SH 36 Northeast Tracts, which were annexed by the City in May 2013. A number of the tracts had agricultural use tax exemptions and were therefore offered Non-Annexation Development Agreements (Agreement(s)) in accordance with state law. The owner of the subject property, Wenzel Enterprises, LLC, entered into one of said Agreements with the City of Rosenberg. Namely, the Agreement provided immunity from City taxes. However, it did stipulate that if the property was developed for purposes other than agriculture, the development would constitute a petition by the owner for voluntary annexation of the property for full purposes by the City. Additionally, the owner is in the process of selling the tract to Gulf South Pipeline for use as a compressor station facility and has therefore requested that it be annexed by the City for full purposes. The remaining acreage would remain under the Agreement, as it would continue to be used for agricultural purposes, and only the 20.37-acre tract would be subject to City taxes. This approach is directly in accordance with the language in the Agreement.

In previous instances, staff has been directed to move forward per the terms of the Agreements. Resolution No. R-2056 is being presented as a petition for annexation to be accepted by City Council. Per the City Charter and state law, once the petition is accepted by City Council via the Resolution, it must be acted on no sooner than five (5) days nor later than thirty (30) days. Should City Council approve the request for voluntary annexation, staff will prepare an Ordinance for placement on a future City Council Agenda within that timeframe for annexation of the property.

KEY DISCUSSION POINTS

Travis Tanner, Executive Director of Community Development, read the Executive Summary and presented the Vicinity Map. Robin Lindley in representation of the property owner, confirmed that the property must be annexed according to the economic development agreement for the land, and confirmed that the property owner wishes to be annexed. Scott Tschirhart, City Attorney, explained that the property has already been annexed, but in a limited purpose annexation, where it is being treated as agricultural property and we are not collecting taxes on it. The annexation would remove the agricultural limitation and make the property taxable.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 3 Lisa Wallingford to approve Resolution No. R-2056, a Resolution accepting the filing of a petition by land owner for annexation of a 20.37 acre (887,403 square feet) tract of land, situated in the John Foster Survey, Abstract No. 27, the Henry Scott Survey, Abstract No. 83, the B.B.B. & C. Railroad Company Survey, Abstract No. 139, the Yandell Ferris Survey, Abstract No. 375, and the Yandell Ferris Survey, Abstract No. 377, Fort Bend County, Texas.

Vote: 7 - 0 Carried - Unanimously

11. **Consideration of and action on Variance Decision and Order No. V2015-02, a Variance Request regarding the rear building setback requirement for Seabourne Meadows Section One, Unrestricted Commercial Reserve "A."**

EXECUTIVE SUMMARY

A Variance Request application has been submitted for a building setback from the rear property line of Seabourne Meadows Section One, Unrestricted Commercial Reserve "A" (southwest corner of Seabourne Meadows Drive and Spur 529, 1.706 acres). This is for a convenience store on a commercial reserve abutting single-family residential lots in the Seabourne Meadows Section One subdivision. A vicinity map of the property, application materials, and photos are attached for review.

The subdivision, Seabourne Meadows Section One, was originally platted in February 2005. The current "Subdivision" Ordinance (Code of Ordinances, Ch. 25, Sec. 25-69) requires a 30' rear building line for commercial reserves abutting a residential use. This requirement has been in place since May 2008 (subsequent to the subject property being platted) and has been enforced consistently since that time. The plat of the subject property has only a 10' utility easement along the rear property line in question.

Variances must be evaluated by the Planning Commission and City Council based on the four (4) criteria outlined in the Code (Sec. 25-8). Following is staff's analysis of each of the criteria.

- (1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;**

The applicant has claimed the configuration and need for a fire lane in front of the building as special circumstances per their application. Staff believes the triangular shape of the tract, combined with it being platted before the current ordinance with only a 10' rear utility easement, could potentially constitute special circumstances.

- (2) The granting of the variance will not be detrimental to the public safety or welfare, or injurious to other property in the area;**

Staff cannot identify any safety concerns or specific negative impacts associated with this request. It will be required to comply with applicable international codes and would be inspected by the City. Additionally, they have proposed landscaping to buffer the commercial building from abutting residential uses.

- (3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this chapter; and**

The granting of the variance should not prevent orderly subdivisions in the area. New subdivisions are required to have building lines in accordance with City codes and in that way are not the same as previous subdivisions with less restrictive building lines.

- (4) A more appropriate design solution exists which is not currently allowed in this chapter.**

The proposed design solution does not appear to be inappropriate given its context. The applicant originally submitted plans for the building to be much closer to the adjoining residential property line. Once informed by staff of the 30' setback requirement, they altered the plan for the building to be approximately 23' from the lot line, with added landscaping to buffer the use. Trees were also subsequently modified from live oaks to crape myrtles so as not to conflict with any overhead utilities.

The code also states that, "in granting variances, the City may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties." Staff would not object to the proposed variance with the following conditions:

- 1) Minimum rear setback of 23'; and
- 2) Rear landscaping per attached site plan.

Staff generally not being opposed to the variance is based on the triangular shape of the tract combined with it having been platted before the current ordinance took effect. Additionally, it is only one corner of the building that would intersect with the 30' setback line. The above conditions are recommended to provide for additional safeguards for the abutting residential neighborhood. With the latter conditions in place, staff does not take issue with the proposed variance or believe that it will be detrimental to the public welfare.

The Planning Commission had the options of recommending to City Council that the variance be denied, granted as proposed, or granted with additional conditions such as additional landscaping. On September 16, 2015, the Planning Commission recommended approval to City Council of the proposed variance.

While granting of variances is at the discretion of the Planning Commission and City Council, staff has no objections to the requested variance and, pursuant to the Planning Commission's recommendation, recommends approval of Variance Decision and Order No. V2015-02.

KEY DISCUSSION POINTS

Travis Tanner, Executive Director of Community Development, read the Executive Summary and presented the Vicinity Map. Because there is no Zoning Ordinance in place, there is no requirement to notify the nearby residents, but the Planning Commission is hopeful that, by working with the developer, the major requirements will be met for the property. The Homeowners Association informed the homeowners that the piece of property was platted as a commercial property from the beginning of development of the neighborhood. There was some concern expressed for wanting to know what the residents in that neighborhood would prefer. After the first motion, the developer stated that the Homeowners Association and the residents are already aware of their intention to build a convenience store at that location.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 4 Lynn Moses to table the item until discussion can be had with the Homeowners Association and the residents of the community.

Vote: 2 - 5 Failed - Yeses: Councilor Benton and Moses. Noes: Mayor McConathy, Councilors Barta, Pena, Euton, and Wallingford.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Variance Decision and Order No. V2015-02, a Variance Request regarding the rear building setback requirement for Seabourne Meadows Section One, Unrestricted Commercial Reserve "A."

Vote: 5 - 2 Carried - Yeses: Mayor McConathy, Councilors Barta, Pena, Euton, and Wallingford. Noes: Councilor Benton and Moses.

12. **Consideration of and action on Ordinance No. 2015-32, an Ordinance amending the Code of Ordinances by adding an Article XXI. – Interim Corridor Standards to Chapter 6 – Buildings and Building Regulations; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; providing for severability; and providing an effective date.**

EXECUTIVE SUMMARY

On September 1, 2015, City Council passed Resolution No. R-2031 repealing the West Fort Bend Management District's standards as they relate to properties located in Rosenberg. The Resolution takes effect sixty (60) days from the time it was passed, which is on October 31, 2015.

As discussed, the City has the authority to regulate the same issues as the District, but currently does not in many cases since it had previously relied on the District's standards. Therefore staff would recommend the City adopt its own standards, or "interim" standards, until a longer term solution is reached, such as a Unified Development Code (UDC), with comprehensive standards pursuant to the proposed Comprehensive Plan.

Until more comprehensive standards are adopted, the attached interim standards would at a minimum achieve the following:

- With these standards in place, Rosenberg would be the controlling entity, not a separate District. Therefore any changes or variances would be decided at the City level (Planning Commission and City Council), and the standards would be interpreted by City staff.
- The width of the 2,000' corridors is reduced to only 1,000', so it covers less area and focuses more on those areas that are visible from the public street. This issue of 2,000' potentially being too great of a distance has been discussed extensively.
- The building and parking setback lines are much less restrictive, so it allows for more developable property particularly for smaller properties in older parts of town.
- Provides for certain exemptions for existing development and minor renovations; and for the possibility of exceptions as determined by the Planning Commission for smaller properties with existing improvements on them in the interior parts of the State Highway 36 and U.S. Highway 90A corridors.
- The required landscaping is much less (e.g., one instead of two rows of shrubs); fewer and smaller trees are generally required; and "planting diamonds," for example, are not required in parking lots.
- It specifically only allows certain types of trees (e.g., crape myrtles) in proximity to overhead utilities.
- Encourages landscaping less dependent on irrigation.
- Requires less masonry (50%) for industrial uses, and masonry may consist of concrete tilt wall for industrial. This is something that previously had to be determined by the District and could not be approved administratively per their standards.
- Does not require all masonry fencing. For example, would allow coated chain link fencing. This has always been discussed as a significant cost of development if one strictly adheres to the existing standards.
- Recognizes the City's freestanding sign size requirements and only requires that support structures for signs be compatible with the building architecture.

This item was discussed by the Planning Commission on September 16, 2015, and by City Council on September 22, 2015. Following direction from City Council, relatively minor modifications were made to the proposed standards. For example, it was clarified that utility and mechanical areas could be screened or located at the rear of buildings to satisfy the requirements. Additionally, following discussions with Economic Development regarding industrial developments, it was clarified that only the front of industrial uses shall require masonry construction.

Staff recommends approval of Ordinance No. 2015-32 as presented. It was not resolved at the Workshop whether the standards should apply to the interior Avenue H and State Highway 36 corridors. If the preference is for the standards not to apply to existing developments on those corridors, the Ordinance could easily be modified to apply only to vacant or completely redeveloped property in those particular areas.

KEY DISCUSSION POINTS

Travis Tanner, Executive Director of Community Development, read the Executive Summary, and explained that the standards are slightly higher than the City's existing development standards, but not as strict as the West Fort Bend Management District had in place. These standards would only apply to new development; existing commercial properties would be grandfathered.

ACTION

Motion by Councilor, District 2 Susan Euton, to approve the Ordinance, applying the standards to all areas listed, except only applying to vacant or completely redeveloped properties on the Avenue H and Highway 36 corridors. The motion failed for lack of a second.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve as presented Ordinance No. 2015-32, an Ordinance amending the Code of Ordinances by adding an Article XXI. – Interim Corridor Standards to Chapter 6 – Buildings and Building Regulations; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; providing for severability; and providing an effective date.

Vote: 6 - 1 Carried - Yeses: Mayor McConathy, Councilor Benton, Barta, Pena, Wallingford, and Moses. No: Councilor Euton.

13. **Hold Executive Session to consult with City Attorney on pending or contemplated litigation, namely Texas Department of Transportation v. Rosenberg condemnation proceedings pursuant to Section 551.071 of the Texas Government Code; to deliberate the appointment, employment, and evaluation of the City Manager pursuant to Section 551.074 of the Texas Government Code; and, for deliberations regarding economic development negotiations as authorized by Section 551.087 of the Texas Government Code.**

ACTION

Motion by Councilor, District 3 Lisa Wallingford, seconded by Councilor at Large, Position 2 Amanda J. Barta to adjourn to Executive Session.

Vote: 7 - 0 Carried - Unanimously

14. **Adjourn Executive Session, reconvene into Regular Session, and take action as necessary as a result of Executive Session.**
Mayor McConathy adjourned the Executive Session and reconvened into Regular Session at 10:02 p.m.

15. **Adjournment.**
There being no further business, Mayor McConathy adjourned the meeting at 10:02 p.m.


Linda Cernosek, TRMC, City Secretary